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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/813,513 | 03/29/2004 | Danielle F. Goossens | FR-7294 | 8100 |

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| EXAMINER |
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SZEKELY, PETER A

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| ART UNIT | PAPER NUMBER |
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1714

DATE MAILED: 01/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/813,513 | Applicant(s) GOOSSENS ET AL. | |
| | Examiner Peter Szekely | Art Unit 1714 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-71 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-54, 57-66, 70 and 71 is/are rejected.
- 7) ☒ Claim(s) 55, 56 and 67-69 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. Claims 14, 25, 29, 30, 42, 51, 59 and 63 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. The terms "soft and pliable" in claims 14, 25, 29, 30, 42, 51, 59 and 64 are relative terms which render the claims indefinite. The terms "soft and pliable" are not defined by the claims, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Numerical values, for example Durometer or PEN is required. Softness is relative. Pliability depends on the force applied. Furthermore, it is immaterial whether similar claims have been allowed in another application. In re Giolito et al., 1888 USPQ 645. (CCPA 1976).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-10, 14-19 and 21-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Hochberg et al. 4,564,650 or Kobayashi 5,990,213.

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6. Hochberg et al. disclose ethylene ethyl acrylate, PBBPA and octabromodiphenyl oxide in Example 5. Kobayashi teaches ethylene-acrylate-glycidyl (meth)acrylate terpolymer and brominated flame-retardants in claim 1. See also column 2, lines 22-42 and column 4, lines 24-39. Applicants' claims are not novel.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 1-10 and 14-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hochberg et al. 4,564,650 or Kobayashi 5,990,213, in view of Inoue et al. 4,845,146, Harashige et al. 5,317,051 or Fujii et al. 5,473,016.

10. The primary references have been discussed already. Inoue et al. divulge organic halogenated flame-retardants in claim 2, ethylene ethyl acrylate in claim 3 and

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inorganic flame-retardants in claim 1. The inorganic flame retardant can be hydrotalcite (column 4, lines 31-33) and the organic one can contain bromine (column 5, lines 5-10). Harashige et al. recite acid derivative modified olefin and flame retardant in claim 1, ethylene-(meth)acrylic acid alkyl ester in claim 3, list of copolymers in column 2, lines 56-65, brominated flame retardants in column 4, lines 41-60 and hydrotalcite in column 5, lines 41-42. Fujii et al. reveal carboxylic acid ester group-containing monomers in claim 1, tetrabromobisphenol A in claim 8, flame-retardant concentrations in claim 5, ethylene-acrylate copolymers in column 6, lines 4-22 and hydrotalcite in column 10, lines 7-8. It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to add hydrotalcite to the compositions of the primary references, in order to improve the flame resistance.

Claim Rejections - 35 USC § 102

11. The text of those sections of Title 35, U.S. Code not included in this action can be found in paragraph #4.

12. Claims 1-54, 57-66 and 70-71 are rejected under 35 U.S.C. 102(b or e) as being anticipated by Harashige et al. 5,317,051, Fujii et al. 5,473,016, Ogoe et al. 6,329,450, Teramoto et al. 2003/0139507 or Delabroye et al. 2005/0004285.

13. Harashige et al. recite acid derivative modified olefin and flame retardant in claim 1, ethylene-(meth)acrylic acid alkyl ester in claim 3, list of copolymers in column 2, lines 56-65, brominated flame retardants in column 4, lines 41-60 and hydrotalcite in column 5, lines 41-42. Fujii et al. reveal carboxylic acid ester group-containing monomers in claim 1, tetrabromobisphenol A in claim 8, flame-retardant concentrations

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in claim 5, ethylene-acrylate copolymers in column 6, lines 4-22 and hydrotalcite in column 10, lines 7-8. Ogoe et al. Ogoe et al. display styrenic resin and functionalized polyolefin in claim 1, Lotader AX8900 in column 17, lines 34-36, brominated flame-retardants in column 19, lines 36-56, and organotin mercaptides in column 20, line 7. Teramoto et al. present polyolefin and brominated flame-retardants in claim 1 and ethylene (meth)acrylate copolymers in paragraph 0027. Delabroye et al. relate polypropylene in claim 1, brominated flame-retardants in claim 3, ethylene ethyl acrylate in paragraph 0025, bromine compounds in paragraphs 0026-0028, tetrabromocyclooctane in paragraph 0028 and hydrotalcite, zeolite and organotin carboxylate in paragraph 0029. Applicants' claims are not novel.

Claim Rejections - 35 USC § 103

14. The text of those sections of Title 35, U.S. Code not included in this action can be found in paragraph #7.

15. Claims 1-54, 57-66 and 70-71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harashige et al. 5,317,051, Fujii et al. 5,473,016, Ogoe et al. 6,329,450, Teramoto et al. 2003/0139507 or Delabroye et al. 2005/0004285, in view of Inoue et al. 4,845,146 or Burditt et al. 5,079,283.

16. Burditt et al. discuss olefin polymer, ethylene ethyl acrylate and flame-retardants in claims 1-3 hydrotalcite in column 4, lines 31-32 and brominated flame-retardants in column 5, lines 5-10. All other references have been described already in previous paragraphs. It would have been obvious to one having ordinary skill in the art; at the time the invention was made, to select applicants' ingredients from a list or equivalents.

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Allowable Subject Matter

17. Claims 55, 56 and 67-69 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Szekely whose telephone number is (571) 272-1124. The examiner can normally be reached on 7:00 a.m.-5:30 p.m. Tuesday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Peter Szekely
Primary Examiner
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P.S.
12/30/05

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